IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO.5018 OF 1991

1. Municipal Corporation of the
City of Pune, Shivajinagar,
Pune.

2. The Assessor and Collector of TAxes,
Pune, Pune Municipal Corporation, Pune ..Petitioners.

V/s

Shri Rajesh G. Parekh
at 381/A/1, Building No.1,
Bhavan Peth, Pune. ..Respondent.

Mr. R.M. Pethe for Mr. R.G. Ketkar for the petitioners.
Mr. V.S. Gokhale for the respondent.

CORAM : D.G. DESHPANDE, J.

DATE : 10TH OCTOBER, 2006.

ORAL ORDER

. Heard Advocates for the petitioners and respondent. A short question is involved in this petition i.e. whether the property tax is liable from the date of completion certificate. Along with the petition, the petitioner-Corporation has annexed Exh."A" in respect of the Suit premises. It is clear from this as pointed out by the Advocate for the Corporation that completion certificate was issued on 4/12/1982 and the date of implementation is dated 1/12/1982. There is no

dispute that in 1982 itself the notice was served upon the respondent by the Assessor and Collector of Taxes, but from 3/3/1983 to 5/11/1985 in spite of granting more than 10 occasions neither the Builder nor the Promoter appeared before the Assessor and the Collector of Taxes remained present but they went seeking adjournments after adjournments. Consequently, on 5/11/1985 the rateable value was fixed and the bill was sent. The rateable value was fixed from 1982 onwards.

2. So far as rateable value is concerned, both the Courts have given findings in favour of the Corporation. Those findings are required to be upheld. What is challenged by the Corporation is fixing the tax liability from 5/11/1985 and not from 1/12/1982. Both the Courts have held that tax liability cannot be fixed retrospectively. Those findings are totally wrong and perverse on the basis of record. It is not that the petitioner have for the first time started proceeding for fixation of annual rateable value or determination of tax in 2006 and making claim from 1986. This is for example only. The proceedings were started as soon as the completion certificate was issued in 1982. In 1983 itself notices were served to respondent NO.1 by the

Assessor of the Corporation but from 3rd March, 1983 to 5th November, 1985 they went on seeking adjournments and also remained absent. In view of the matter, on 5/11/1985 the rateable value was fixed and the bill was sent from 1982.

3. In fact, no illegality was committed by the petitioner Corporation in fixing rateable value from 1982, because the proceedings were started after completion certificate dated 1/12/1982. This is not the case of fixing the rateable value retrospectively. The findings of both the Courts below are totally perverse. Therefore, the order.

A,. Petition is allowed.

B. Rule made absolute in terms of prayer (b) of the petition.

C. No order as to costs.

(D.G. DESHPANDE, J.)